

Claims 1, 3 to 6, 8, and 22 to 26 have been rejected under 35 U.S.C. 102(b) as being unpatentable over Japanese Patent Application No. 07138135A (Mikimoto I).

The rejection of claims 1, 3 to 6, 8, and 22 to 26 under 35 U.S.C. 102(b) over Mikimoto I is moot in view of their cancellation.

Claims 1, 3 to 6, 8, and 22 to 26 have been rejected under 35 U.S.C. 102(b) as being unpatentable over Japanese Patent Application No. 07126143A (Mikimoto II).

The rejection of claims 1, 3 to 6, 8, and 22 to 26 under 35 U.S.C. 102(b) over Mikimoto II is moot in view of their cancellation.

Claims 1 and 3 to 9 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Application No. 07138135A (Mikimoto II) in view of U.S. Patent No. 5,916,579 (the Soudant Patent).

The rejection of claims 1 and 3 to 9 under 35 U.S.C. 103(a) over Mikimoto II is moot in view of their cancellation.

Claims 1, 3 to 9, and 22 to 27 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent Application No. 07138135A (Mikimoto I) and further in view of U.S. Patent No. 4,839,168 (the Abe Patent).

The rejection of claims 1, 3 to 9, and 22 to 27 under 35 U.S.C. 103(a) over Mikimoto I is moot in view of their

cancellation.

Claims 15 to 17 and 28 have been rejected under 35 U.S.C. 102(a) as being unpatentable over Japanese Patent Application No. 2000-072649 (Mikimoto III). Mikimoto III was said to teach the use of an elastase inhibitor for maintaining elastic texture and youthfulness of skin. The inhibitor has a mixture of plant extracts, including Lagerstroemia speciosa leaf extract.

The rejection of claims 15 to 17 under 35 U.S.C. 102(a) as being unpatentable over Mikimoto III is traversed in view of the Declaration submitted herewith. The Declaration establishes that the claimed invention was conceived in the United States prior to March 7, 2000, the publication date of Mikimoto III. This invention is described in the redacted Invention Disclosure Document attached to the Declaration. The inventors, including the Declarant, signed the Invention Disclosure Document before the March 7, 2000 publication date of Mikimoto III. This conception was coupled with diligence from the time at least just before the March 7, 2000 publication date until the time of filing of the present application, November 28, 2000. In view of the possession of the invention by the inventors prior to March 7, 2000, the rejection under 35 U.S.C. 102(a) is not well taken.

The rejection of claim 28 under 35 U.S.C. 102(a) in view of Mikimoto III is moot in view of its cancellation.

Claims 1, 3 to 13, 15 to 21, and 28 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Mikimoto

III and further in view of Mikimoto II and U.S. Patent No. 5,916,579 (to Soudant Patent).

The rejection of claims 3 to 13, 15 to 21, and 28 under 35 U.S.C. 103(a) as being unpatentable over Mikimoto III and further in view of Mikimoto II and the Soudant Patent is not well taken since the publication date of Mikimoto III has been sworn behind (see the rejection of claims 15 to 17 under 35 U.S.C. 102(a) above).

Claim 17 has been amended to make language use more consistent with that of other claims. Claim 17 was not amended in view of the prior art.

The claims also appear in the attachment referred to as VERSION WITH MARKINGS TO SHOW CHANGES MADE.


Reconsideration of claims 10 to 13, and 15 to 21 and 28 is deemed warranted in view of the foregoing, and allowance of those claims as well as new claims 29 to 37 is earnestly solicited.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

In the Claims

Claims 1, 3 to 9, 22 to 27 have been cancelled.

10. (Twice amended) A method of improving the aesthetic appearance of skin, comprising topically applying to the skin:

a composition comprising an effective amount of crape myrtle extract; and

a cosmetically acceptable vehicle,

wherein the improvement in aesthetic appearance is selected from the group consisting of:

- a) decreasing skin fragility;
- b) treating and reversing deterioration of collagen and/or elastin;
- c) treating skin atrophy;
- d) promoting/accelerating cell turnover;
- e) improving skin firmness/plumpness;
- f) improving skin texture;
- g) decreasing fine lines and/or wrinkles;
- e)[h)]improving skin tone;
- [enhancing skin thickness;
- f)[j)]restoring skin luster; and
- g)[k)]minimizing signs of fatigue[; and
- l) reducing skin dryness].

17. (Twice amended) The method of claim 15, wherein

the [crape myrtle extract] composition is applied to the skin at least once daily for a period of time sufficient to treat and/or ameliorate the effects of skin aging.